

George William Parrish #26642
Montana State Prison
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Appellant Pro Se

FILED

July 9 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

George William Parrish,
Defendant/Appellant,

FILED D-10-0071

vs

JUL 09 2010

State of Montana,
Plaintiff/Appellee.

Ed Smith Reply Brief
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Comesnow, George William Parrish, Hereinafter Defendant respectfully files this reply brief to the States response in the above entitled cause. The State ignores the authorities cited by this Defendant wherein courts of this state have ordered relief to defendants regardless of time elapsed. (Kelly Dale Clark, DC-02-99; State v Sheppard, 277 Mont. 76) This Defendant is not attempting to bypass anything- rather gain relief from a arbitrary decision of a privately contracted therapist employed by the state.

This Defendant does not surrender his Fifth Amendment rights at the door of the prison. Countervailing government interests, such as criminal rehabilitation , does not trump the Fifth Amendment right. United States of America v Antelope, 03-30334 (2005). The States reply takes unrealistic liberties with this case assuming it knows the circumstances of the case. A simple review of the lower courts exhibits will show this court that this Defendant did everything possible to comply with the requirements of the Phase 2 Group he was attending, the only thing that changed was the states position. The clearly the program treatment providers changed their mind and regularly change their minds and treat various offenders differently.

Despite its assertion that he was not asked to disclose any uncharged conduct that could be used in any future proceeding, he most certainly was asked to fully disclose his complete sexual history and advised that such disclosure could result in future criminal charges depending on the disclosures. Jennifer Anders was not in the room even though she is making suppositions about what was said during this defendants group sessions. This amounts to compulsion and is a violation of this defendants fifth amendment privileges.

The State further shows its disregard for the facts when it talks about a important component of rehabilitation programs is having participants confront their past and accept responsibility for their misconduct..Research indicates that offenders who deny all allegations of sexual abuse are three times more likely to fail in treatment than those who admit even partial complicity. If it is up to the SOP program at MSP they throw a person out for not giving full admissions to current offenses. This defendant admitted his past and tried to reap the maximum benefit from group but was removed. A recent study found an overall success rate on release of 77.6% for sex offenses within four years while financially motivated crimes only sported a 45% success rate according to a recent Michigan study. Treated or untreated sex offenders are not factored in but even the untreated sex offenders are factored in to Montana's statistics and only 8 offenders have reoffended in the past the state over the past 30 years with a new sex offense. Several thousand release and only 8 reoffended. The Michigan study was titled, Denying parole at first eligibility; How much public safety does it actually buy?

Additionally the State tries to create the impression that its treatment program should not have to be customize treatment. It goes on to offer that sexual offenders are a serious threat and that society has an interest in preventing recidivism and that it is frighteningly high. Although one new victim is most desirous certainly 8 out of 30 years is a better recidivism rate than DUI or meth relate offenses over the last 30 years. DUI offenders are truly frighteningly high and a serious threat. While the state claims this defendant is not entitled to a customize treatment program that is exactly what the program at MSP offers. "Program documentation and interviews with treatment staff indicate that Phase II is comprised of 45 written assignments that the program participants present during treatment groups; length of stay is between 18-30 months. Special Phase II tracks are reportedly available for statutory offenders and individuals with interfering symptoms such as significant mental health difficulties, cognitive impairments, and functional skills." page 21, A Report to the Montana DOC on the Establishment of a minimum Security Sex Offender Treatment Facility. July 2008. The Report also states on page 6, "Differences exist across a variety of domains including, but not limited to, the factors that are associated with the initiation of sex offending behaviors, the nature and dynamics of the offenses, levels of functioning and intervention needs, amenability and response to intervention, and risk to reoffend. Individually and collectively, these variations highlight the importance of developing policies that recognize the diversity of this

of this special population, rather than attempting to design a "one-size-fits-all" sex offender management strategy: at the practical level, the differences that exist within the sex offender population require the application of individualized, case-specific management approaches." Page 6. That sure does not sound like what is being done at MSP now. In the not so distant past the MSP program also offered a Phase II Orientation. This group was for individuals who have completed Phase I but are still denying their offense. The group was designed to assist the individual in breaking down his defense mechanisms, such as denial, to allow him to see the need for treatment, and create motivation and desire to change in reference to his thinking and behavior." This group was phased out around 2005 for no apparent reason other than MSP was narrowing its treatment criteria to exclude this much needed group. The simple fact remains that this defendant was participating in treatment and learning from that treatment. The State removed him and has thus stopped any benefits that may have been obtained.

The state further errors when it cites the fact that pre-1989 requires offenders to serve their entire sentence and have no liberty interest in parole. They must read Board of Pardons vs Allen to realize their error. Even if this defendant does not have a liberty interest in actual parole, he does have a liberty interest in being considered and with out completion of SOP Phase II or being allowed to participate in a deniers group the current judgment and MSP is infringing his liberty. The court in this case can not defer to a administrative determination of the DOC or MSP treatment providers.

The judiciary cannot abdicate its responsibility to undertake an independent evaluation based upon the courts deference to the states perceived adherence to moral or ethical obligations. The DOC and MSP have denied this defendant due process, equal protection, infringed upon his Fifth Amendment privileges and have illegally administered his sentence. For the court to look the other way and not order a remand for a hearing to allow further testimony is a true miscarriage of justice.

Done and Dated this 7th day of July, 2010.

Certificate of Service

I, George William Parrish, Deffendant/Appellant in the above entitled cause hereby certify that I have mailed a true and correct copy of the above Reply Brief by depositing it in the U.S. Mail postage prepaid addressed as follows:

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George William Parrish, Appellant